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**THE EVOLUTION OF DUAL STATUS COMMAND AUTHORITIES  
A NEW CONSTRUCT FOR IMPLEMENTATION**

by

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## **Biography**

Mr. Trent O. Dudley is assigned to the Air Force Operations Group, located at the Pentagon, Washington, D.C. He serves as the Deputy Chief of the Current Operations Division. His duties include oversight of the Current Operations Regional Assessment Teams, Operator Engagement Talks and the Air Force Crisis Action Team Facilities located at the Pentagon. Prior to assuming his present duties, he was a the Senior Analyst for the Personnel Readiness Division, Directorate of Personnel Programs, Deputy Chief of Staff for Personnel, Headquarters US Air Force. Prior to joining Federal Civil Service, Mr. Dudley worked as a Program Manager and Senior Analyst for ICF International headquartered in Fairfax, Virginia. Mr. Dudley is a retired US Air Force Lieutenant Colonel with experience in Public Affairs, Recruiting, Mobilization and Operations. During his Air Force career, he accumulated nearly 3,000 total and 330 combat and combat-support flying hours piloting T-37, T-38 and KC-10 aircraft.

## **Abstract**

Neither the United States government nor the Department of Defense has ever achieved unity of command during an unplanned or unforeseen multistate domestic incident. Why is unity of command important during response operations? Joint Publication 3-0, offers the following guidance, “Unified action is a comprehensive approach that synchronizes, coordinates, and when appropriate, integrates military operations with the activities of other governmental and nongovernmental organizations to achieve unity of effort.”<sup>1</sup> The absence of unity of command creates second and third order effects that detract from the accomplishment of assigned missions and may lead to mission failure.

The primary impediment to achieving unity of command is a reluctance of the individual state governors and the president to relinquish control of their assigned forces. Through case studies, this paper examines the reluctance of civil authorities to relinquish control of their assigned forces. It also looks at the current Dual Status Commander (DSC) authorities and proposes an update—an evolution—of these authorities. In conclusion, a structure is introduced, Domestic Control (DOCON), that intends to address the statutory limitations to unity of command. Achieving unity of command culminates in unity of effort. Following any large-scale domestic incident, a unified effort is required to resolve the incident successfully and to minimize loss of life and property.

## **Introduction**

Unity of Command is a key tenant of joint military operations; it supports the national strategic direction, and is central to unity of effort.<sup>2</sup> There are several impediments to implementing a unified command and control structure, which prevents a true unity of command during multistate domestic emergencies. The desire for local, state and federal authorities to retain control of their assigned forces continues to impede effective implementation of unity of command. The United States Code (USC) regulates the training and usages of all military forces. In general, Title 10 USC, *Armed Forces*, governs Active Component and Reserve forces while Title 32 USC, *National Guard*, governs Guard forces. Changes to the US Code, coupled with a shift in organizational cultures is required to implement any solutions to enhanced unity of command during multistate domestic emergencies. One solution could be Domestic Control (DOCON). DOCON is designed to alleviate the primary legal obstacles to unity of command. A new authority, it combines the state and federal chains of command of military forces during domestic emergencies. Failure to rectify the shortcomings of the current authorities may lead to increased loses of life and property.

Beginning with Hurricane Katrina, the case studies presented will illustrate attempts by Congress to address the inadequacies of the current command and control structure. The cases will also show that the shortcomings span jurisdictions from city and county organizations all the way to the federal government. With the desire to retain control of assigned military forces as a foundational premise, this paper will focus on structural solutions to achieving unity of command. The scope of this paper is inadequate to address why leaders are reluctant to relinquish control of their assigned personnel and assets. As a point of reference, this paper will

offer a Constitutional explanation for why governors believe they have dominion over their assigned National Guard forces.

### **Hurricane Katrina Highlights Deficiencies in DOD Command and Control during Domestic Response Operations**

On 29 August 2005, Hurricane Katrina struck the southern coast of the United States near Buras-Triumph, Louisiana. The aftermath of Katrina verified it as one of the costliest natural disaster in United States history.<sup>3</sup> Leading up to the disaster, many in the United States assumed that the full capacity of the Federal Government to include the Department of Defense would be available to assist the victims Katrina left in its wake. The affected states and DOD responded with over 70,000 military personnel in Louisiana and Mississippi to assist local responders. Over 20,000 of the responding military personnel were from the active components (Title 10 forces) while the balance of more than 50,000 represented National Guard units from all across the country.<sup>4</sup> The military and national response was truly, a herculean effort but one wrought with inefficiencies, lack of coordination and no unity of command for military forces.

The Government Accountability Office published reports on the responses to hurricanes Andrew and Iniki, the 1989 earthquake in the San Francisco area and the terrorist attacks of 11 September 2001, in the hopes that lessons learned would be applied to subsequent catastrophic events. GAO's May 2006, report 06-643 on Hurricane Katrina stated, "None of these prior disasters compared to the devastation wrought by Katrina, and the military was not prepared for what would be needed in her wake. Overall, the lessons were not heeded and planning proved to be insufficient because it did not identify the military capabilities that could be needed to respond to a catastrophic natural disaster of this magnitude."<sup>5</sup> In all the reports, the GAO found the National Guard "is particularly well suited for civil support," but the challenge was how to

exercise command and control of the total military response.<sup>6</sup> GAO also reported two major shortcomings during response to all the disasters mentioned previously, first, integration of military support from different components and commands was not adequate to provide for unity of command<sup>7</sup> and second, Title 10 USC limited access to members of the services' Reserve components for domestic disasters.<sup>8</sup>

Congress began to address these shortcomings in 2006, with the enactment of the Dual Status Commander (DSC) authorities of Title 32 USC, Chapter 3, Sections 315<sup>9</sup> and 325.<sup>10</sup> The status as a DSC allows an officer of the active and Reserve or National Guard to hold a commission in two components and exercise separate authority in the federal and state chains of command providing an ability for unity of command within a single state. Several years later the National Defense Authorization Act (NDAA) for Fiscal Year 2012—incorporated in Title 10 USC as Section 12304a, *Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve: order to active duty to provide assistance in response to a major disaster or emergency*—alleviated the second shortcoming.<sup>11</sup> This new authority codified access to Reserve personnel to assist domestically via involuntary recall. The DOD and the Services have developed detailed guidance to implement this recall authority. As of the writing of this paper, no instance of activation under 12304a authority has occurred. The nation continues to wrestle with the first shortcoming—how to devise a command and control system to realize a true unity of command—the DSC authorities have proven inadequate during multistate domestic emergencies. DOCON is a structure designed to address the shortcomings of DSC during multistate domestic emergencies.

## **Thesis**

The current statutes governing DSC are inadequate to provide effective command and control of all uniformed personnel during unplanned domestic natural disasters, catastrophes or other unplanned large-scale incidents that involve multiple states or territories. Can revising the DSC authorities enable support that is more responsive during regional, multistate emergencies? The answer is yes, a revised structure implementing DOCON is one solution to this lingering issue. DOCON will provide unity of command during all domestic events involving multiple states or territories.



## **Genesis of States Rights and the Militia**

### **Why Governors are reluctant to Relinquish Control of Their Assigned Forces**

With increasingly informed constituencies that have access to 24-hour news broadcasts and prolific internet activity, state governors feel an extreme pressure to show localized responses to catastrophic incidents. During Hurricane Sandy, Governors Christie and Cuomo of New Jersey and New York respectively, undoubtedly felt the pressure to provide support to the citizens of their individual states...even if it meant not providing mutual assistance to neighboring states. The inherent bias of supporting constituents along with the inability of the current response system to present a unified command structure, during multistate disasters, leaves a void in prioritizing regional response activities. No authorities in the current disaster response system override states' inward focused bias to allow for a broader application of resources. A change to Title 32 USC to allow for regional DSCs would provide a structure for aligning resources across multiple states. DOCON articulates the command relationships necessary to execute all relief activities.

When the founders drafted the US Constitution, they were deliberate in delineating the powers of the three branches of government to create a balance of power to preclude any one branch from becoming predominant and usurping the power of the other two branches. The Constitution enumerates the dominion of the federal government and the 10<sup>th</sup> Amendment states explicitly that, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."<sup>12</sup>

In Article I, Section 8, the Constitution grants The Congress the power, "To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining, the Militia, and for governing

such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.”<sup>13</sup> The Militia, as referenced, includes “citizens of the United States who are members of the National Guard.”<sup>14</sup> The view of many governors is the National Guard is a constitutionally protected state institution—unless federalized—and therefore is explicitly under their direction. The desire for governors to retain control of their assigned forces continues to impede implementation of unity of command. This inability to unify forces under a single chain of command is an inefficient application of forces and degrades unity of effort during response operations. The command and control structure resident in DOCON provides an effective solution by doctrinally prescribing a single chain of command for all responding military forces.

### **Initial Attempts to Bridge Statutory Gaps during Domestic Crisis**

#### **Unity of Effort in a Multistate Crisis Hampered By Inability to Establish Unity of Command**

The issue of unity of command remains a challenge particularly when multiple states are involved in an incident. Successful inter-organizational coordination of plans are intended to facilitate unity of effort among multiple organizations by promoting a common understanding of the capabilities, limitations, and consequences of military and civilian actions. Analyzing case studies of incidents involving multijurisdictional support, may lead to potential solutions to the limitations of the current laws and policy. The recognition of the inability to unify command of uniformed forces is central to the enactment in 2006, of the DSC authorities of Title 32.<sup>15</sup> This legislation was an attempt to specify the chain of command for all forces conducting operations within a state following an incident. Various laws explicitly restrict command authority that

crosses between Title 10 USC—active component—and Title 32 USC—National Guard—forces. This in part is to maintain the distinction between the state chain of command, which ends with the state governor, and the federal chain of command, which ends with the president. This is an antiquated and inefficient application of current military capabilities. In many cases, significant capability resident in the active military components is late to need during a disaster. DOCON offers a structure to prioritize and exercise unified command over all military forces within a disaster region, independent of force assignment.

### **Current Doctrine Provides an Inadequate Structure for Multijurisdictional Incidents**

An analysis of current statutes and Joint doctrine highlights four options for the command and control of Civil Support activities. The first is a state National Guard only option with no request for federal military assistance. The second is a parallel state and federal force option—state and federal forces retain their own chains of command and work side by side, a unity of effort but not a unity of command. The third option is a federal only command and control with no forces under state control. This option is rarely used but is the only option that achieves true unity of command or a single commander when federal forces are involved.<sup>16</sup> However, placing state forces under federal control will limit missions such as law enforcement. The final option is implementation of a “dual-hatted” structure where state and federal chains of command go through one individual, i.e. DSC. DOCON enhances this “dual-hatted” authority and adds regional command authorities to achieve unity of command during multistate incidents.

### **Hurricane Sandy – First use of Dual Status Command Authority for an Unplanned Event**

On 29 October 2012, Hurricane Sandy made landfall as a post-tropical cyclone at about 7:30 p.m. EDT near Brigantine, New Jersey.<sup>17</sup> Of the five states authorized to use DSC activation, only two states, New York and New Jersey, received National Guard and active

military responders.<sup>18</sup> Just four days before Hurricane Sandy's landfall, GAO issued a report enumerating shortfalls in the implementation of DSC for events affecting multiple states.

DOD has not developed guidance for the use of dual-status commanders for incidents affecting multiple states and territories, and it does not have a process to determine the appropriate mix of National Guard and active duty federal officers to meet DOD's anticipated needs. As a result, DOD's ability to adequately prepare for and effectively use dual-status commanders for a range of civil support events, including those affecting multiple states, may be hindered.<sup>19</sup>

The GAO produced a comprehensive post-Sandy assessment of DOD's civil support planning. In their review of Hurricane Sandy response, the GAO noted that, "Challenges associated with the lack of a multistate command and control construct were evident in the federal military response to Hurricane Sandy, which marked the first occasion in which multiple dual-status commanders were employed."<sup>20</sup> "One of the many examples of confusion, happened less than a week into the response operation. The U.S. Marine Corps, at the request of a New York/New Jersey Port Authority official, deployed a detachment of Marines to Staten Island unbeknownst to the NY DSC. Since a civil authority specifically requested the Marines to come ashore, this technically authorized them to deploy without first informing the DSC or his staff."<sup>21</sup> No one on the DSC staff was aware of this activity and no one in the tactical unit knew to contact the DSC staff.<sup>22</sup> The challenge for the DOD and USNORTHCOM is how to preclude such occurrences in the future. DOCON will require specification of the command relationships in all mission-tasking orders. Applied to the preceding example, the request for the Marine detachment

would be through a regional DSC commander. The same regional commander would exercise operational control of that Marine unit.

The Federal government including the DOD is not the only entity that has to contend with issues of multijurisdictional authority. Civil entities face similar challenges during crisis operations. The state governments of Alabama and Massachusetts along with the city governments of Tuscaloosa, Alabama and Boston, Massachusetts, met crisis head on and found effective ways to unify the efforts of multiple agencies during crisis response. Since no formal structure existed to achieve unity of command, informal agreements and a willingness of the autonomous jurisdictions to follow one “commander” resulted in success. On the strength of personality and previously developed relationships, Tuscaloosa and Boston achieved a balance of cooperation. The lack of a formal and codified command structure provided for tenuous relationships and the understanding that any single entity could disrupt cooperation and derail the entire process. Had any agency sought autonomous action, a less effective response effort would have resulted causing increased loss of life and property.

### **Civil Authorities Also Struggle with Unity of Command**

#### **Tornados in Tuscaloosa, Alabama Highlight Command and Control Gaps**

The response in Tuscaloosa following a series of devastating tornados that ripped through the city on 27 April 2011 illustrates how personality and not formal structures were the basis of response. Mayor Walter Maddox assumed leadership of the disparate agencies supporting his community but he exercised no formal authority over the state agencies or the National Guardsmen that provided assistance. He capitalized on having the individual agency representatives as part of his response staff. This proximity eased coordination efforts and limited duplication of effort. By default, he achieved unity of effort by assigning tasks with

representatives of each responding agency in the room. More importantly, each agency was willing to take direction from one authority. Throughout the response, all participating agencies retained their established chains of command. In this instance, the lack of a formal structure did not allow for a true unity of command during response activities. This incident highlights the need for formal command and control structures to expedite response activities. Tuscaloosa is not the only city to face devastating events. Nearly two years later, Boston, Massachusetts faced an unimagined crisis of its own.<sup>23</sup>

### **Boston Marathon Bombings Continue to Show Gaps in Command and Control**

On Monday 15 April 2013, at 2:49 p.m. EDT, the first of two bombs exploded near the finish line for the Boston Marathon, 13 seconds later, a second bomb exploded approximately 180 yards up the course from the first bombing site.<sup>24</sup> The reports of multiple injuries and approximately 27,000 runners on the Marathon course complicated the required response. Moments after the explosions, senior law enforcement and emergency management officials came together on Boylston Street to constitute Unified Command (UC)<sup>25</sup> and immediately began coordinating priorities.

By capitalizing on a single location and having participation of the senior representative from multiple organizations, the UC effectively achieved unity of effort but not a true unity of command. Each agency, to include elements of the Massachusetts National Guard, continued to exercise autonomous command structures but agreed to coordinate all requests for assistance and directions for support through the UC.<sup>26</sup> By activating the UC, Boston city officials created a central “clearinghouse” for all activities and eliminated duplicative efforts because each individual commander was aware of tasks assigned to the other response agencies. The response

in Boston was widely praised for its promptness and overall control of a vast array of unilateral jurisdictional interests. The strategy implemented showed the strength of unity of effort.

With no formal designation of a single commander, Boston did not achieve unity of command. The civic leaders in Boston leveraged proximate communications and agreed to accept tasks from external authorities to produce unity of effort that led to a successful outcome. Capitalizing on previously formed relationships and a willingness to work towards a common goal overcame the lack of a formal structure for unity of command. The DOD continually faces similar challenges when responding to domestic catastrophic incidents. USNORTHCOM and USPACOM are the supported commands for DOD domestic response and thus responsible for coordinating and implementing DOD domestic response activities.<sup>27</sup> It is important to note that National Guard responders are not under the command of USNORTHCOM or USPACOM unless federalized.

### **USNORTHCOM Task Force Construct Introduced**

#### **Joint Task Force-Civil Support Focused on Chemical, Biological, Radiological, and Nuclear Consequence Management**

In USNORTHCOM, Joint Task Force-Civil Support (JTF-CS), similar to the UC in Boston, is the coordinating authority for Title 10 forces. JTF-CS, although primarily designed for chemical, biological, radiological, and nuclear consequence management (CBRN CM), provides C2 for Defense Support to Civil Authorities (DSCA) for natural disasters that may not involve CBRN response (e.g., Hurricane SANDY in 2012).<sup>28</sup> Based on the current DSC authorities, all requests for assistance using Title 10 forces would be coordinated and directed through JTF-CS. The shortcoming of this concept, as illustrated earlier with the Marines to Staten Island, is a lack of visibility of activities that have no designation of a command relationship to JTF-CS. In any

scenario involving multiple states and DSCs, successes such as those in Boston or Tuscaloosa would be unfeasible due to not having a single commander tasking missions across multiple states.

## Synthesis

### **Four Cases of an Inadequate Command and Control Structure for Multijurisdictional Incidents**

None of the cases reviewed—Hurricanes Katrina and Sandy, the Tuscaloosa tornados, and the Boston Marathon bombings—implemented a formal structure for unity of command. All of these cases were successful in achieving unity of effort as the communities and agencies pulled together to serve the victims in their greatest time of need. Based on current statutory constraints and parochial desires to retain control of assigned personnel and assets, the logical question follows; is there an effective structure to exercise command and control of forces from the different military components during unplanned multistate incidents? The current DSC authorities are trending in the right direction. They allow a single commander to exercise command authority within a state. In the case of a multistate incident, each state appoints a DSC who reports to the governor as the supreme command authority of the state in which they received a commission. There is no mechanism to allow command authority across multiple states by a single commander. DOCON addresses this issue and provides a mechanism for a unified command across multiple states by a single commander.

### **Analysis Confirmed By GAO**

“During National Level Exercise 2011 (NLE 2011), officials from US Army North told GAO observers that the exercise revealed that not having a level of command between the dual-status commanders and USNORTHCOM did not work well for such a large-scale, multistate

incident. This was because USNORTHCOM, in the absence of an operational-level command element, faced challenges in managing the operations of federal military forces across a widespread area.<sup>29</sup> “During the exercise, to address this gap, two task forces were employed to operate between the dual-status commanders and USNORTHCOM. While the task forces improved the overall command structure, according to Army officials, there was confusion regarding the role of the task forces in relation to the dual-status commanders, as well as federal military forces in states without a dual-status commander—which some of the state governors involved in this exercise chose not to appoint.”<sup>30</sup> The overarching goal of full situational awareness, which allows for effective application of forces, and a full accountability of engaged forces is hampered by the lack of a multistate command and control structure. The Joint Staff and DOD exercise coordinators voiced the most telling conclusions, “noting that it is unclear how DOD would prioritize the allocation of federal military forces across an affected multistate area when two or more dual-status commanders are in place.”<sup>31</sup> The logical conclusion is a need for an entirely new command structure to address specific command and control of uniformed forces conducting domestic operations that affect multiple states or territories. The implementation of DOCON would address the short falls and provide a structure for prioritizing the allocation of military forces across an affected multistate area.

## **Recommendations**

### **The Case for a New Command and Control Structure for Multistate Domestic Incidents**

Current statutes support preeminence of the state during Civil Support operations with the states directly controlling their military forces (i.e. National Guard).<sup>32</sup> Similar to combatant commanders requesting support, any new structure would designate the states as being the “supported” entity, consistent with current Joint Doctrine. With this premise as a basis,

Lieutenant Colonel Bruce H. Stillman proposed in his 2009 Army War College paper, *Transforming Domestic Civil Support Command and Control*, a new command authority called Domestic Control (DOCON). This proposed command and control arrangement would model itself on existing Joint doctrine for Multinational Operations, which allows U.S. forces to operate under the command and control of another country's military. This concept has merit but attempts to fit into the current statutory authorities. The DOCON construct that follows modifies LTC Stillman's DOCON concept along with proposing changes to existing statutory authority codified in Title 32 USC.

### **Looking Beyond OPCON and TACON to Devise a Structure That Works**

Doctrinally, when additional unassigned forces augment combatant commanders, the Secretary of Defense in the employment order specifies the command relationships, normally, Operational Control (OPCON) or Tactical Control (TACON). Even when operating under the OPCON of a foreign commander, US commanders maintain the capability to report separately to higher US military authorities. The description of OPCON in Joint Publication 3-0 states, "OPCON normally provides full authority to organize commands and forces and to employ those forces as the commander in operational control considers necessary to accomplish assigned missions; it does not, in and of itself, include authoritative direction for logistics or matters of administration, discipline, internal organization, or unit training."<sup>33</sup> The authorities of OPCON give any designated commander the ability to complete all required tasks during a domestic incident. Even with OPCON, the prohibition of a Title 32 National Guard Officer commanding Title 10 forces still remains and vice versa. TACON authorities allow supported commanders to direct forces for a specified task.<sup>34</sup> TACON further directs the commander of the parent unit to continue to exercise command responsibilities unless the establishing directive specifies

otherwise. Like OPCON, the cross Title command restrictions still apply (See figure 1 for inherent authorities).<sup>35</sup>

A new, doctrinally based, command construct such as DOCON would extract authorities from OPCON and TACON and apply them to multistate domestic incidents. In this new construct, upon emergency declaration by two or more states for the same incident, implementation of the current dual status command structure commences in the affected states represented as Dual Status Command-State (DSC-S). Simultaneously, the USNORTHCOM commander, via prearranged agreements with governors within the affected Federal Emergency Management Agency (FEMA) Region,<sup>36</sup> will designate a Regional JTF Command (JTF-R) with a commander who holds a regional dual status commission (DSC-R) that allows for command of forces assigned to all states within the affected FEMA Region. The state Joint Task Forces (JTF-S) would align as subordinate commands to the JTF-R. The JTF-S commanders would continue to fulfill their commitment to the state chain of command through the state Adjutant General to the respective governors under state dual status authority designated as DSC-S. JTF-S commanders exercise TACON over Title 10 forces within their state as specified in the mission tasking orders. The JTF-R commander may receive tasks directly from each governor within the designated FEMA Region. The JTF-R commander would coordinate with the National Guard Bureau to determine capabilities available from unaffected states. The JTF-R commander would work with the Defense Coordinating Official (DCO) to prioritize requests for forces and assistance from the affected states. The JTF-R commander would also have authority to reallocate allocated Title 10 forces as necessary to provide capability in any of the affected states. Pre-coordinated state-to-state agreements will determine reallocation of State (non-federal) Guard forces. (See Figure 2 for the DOCON construct)

### **An Updated Joint Task Force Construct for Domestic Incidents**

The JTF-R construct as outlined is a solution to the gaps experienced in the current dual status command construct. JTF-R is a balanced operational construct that provides unity of command for all uniformed personnel providing support during a domestic natural disaster, catastrophe or other unplanned large-scale incidents. This construct functions best with a National Guard commissioned officer, with specific training in disaster response, as the commander and a similarly qualified Title 10 officer as the deputy commander—this position could be ideal for a Reserve officer with familiarity of the affected area. This approach preserves the President’s purview over Title 10 forces with state JTF-S commanders exercising TACON over Title 10 forces completing mission tasks in affected states. This construct can also consolidate coordination of support from Non-Governmental Organizations, assistance from foreign nations and volunteers alleviating these responsibilities from the state JTF-S commanders’ task list.

Implementing the DOCON model could raise concerns of “free riding” whereby the states receive benefit of the federal government conducting response activities allowing the states to reduce or eliminate their obligations. Most pre-incident training and equipment for the National Guard is already provided by the Army and Air Force with little contributions from the states. Under the current disaster declaration authorities, once an incident reaches the threshold to be declared a federal disaster or emergency, mechanisms exist to request federal reimbursement. DOCON would not change the current funding construct. In the absence of a federal declaration, states would have the responsibility to pay for all response activities.

### **Conclusion**

The concept of the Dual Status Commander was revolutionary at its inception in 2006. It serves as a groundbreaking attempt to provide unity of command across multiple jurisdictions to enhance the unity of effort. Implementation of this authority, beginning with Hurricane Sandy, revealed gaps in its basic conception. In order to insure unity of command and a continuing enhancement of the unity of effort, a revision of the Dual Status Commander authorities is required. Adding the Regional Dual Status Commander and the associated Regional Joint Task Force will overcome the current unity of command shortcomings. To implement this concept, modification to Title 32 USC would be required plus a shift in paradigm for state and federal officials to accept this concept. All levels of government must concede that the preservation of life and property, particularly as it relates to unplanned domestic incidents has preeminence over retaining control over assigned forces.

The overarching desire of all responders during a catastrophic incident is to assist the victims in every way possible. To facilitate this end removing obstacles to providing support with uniformed forces should be the ultimate goal. The DSC-R construct should prove beneficial during any type of domestic incident that involves multiple states and territories and the concurrent employment of Title 10, Title 32 and State Guard forces. The notion of predesignating commanders would allow training and exercising prior to any incident. Predesignating commanders would also facilitate interagency coordination to maximize whole of government response planning. Finally, a change in the law to allow for DOCON and regional dual status command authorities—DSC-R—along with the establishment of regional Joint Task Forces—JTF-R—is consistent with current Joint doctrine for planning. In the end, all Americans would benefit from an improved response structure that provides a true unity of command, saving time, money and ultimately lives.

## Figures

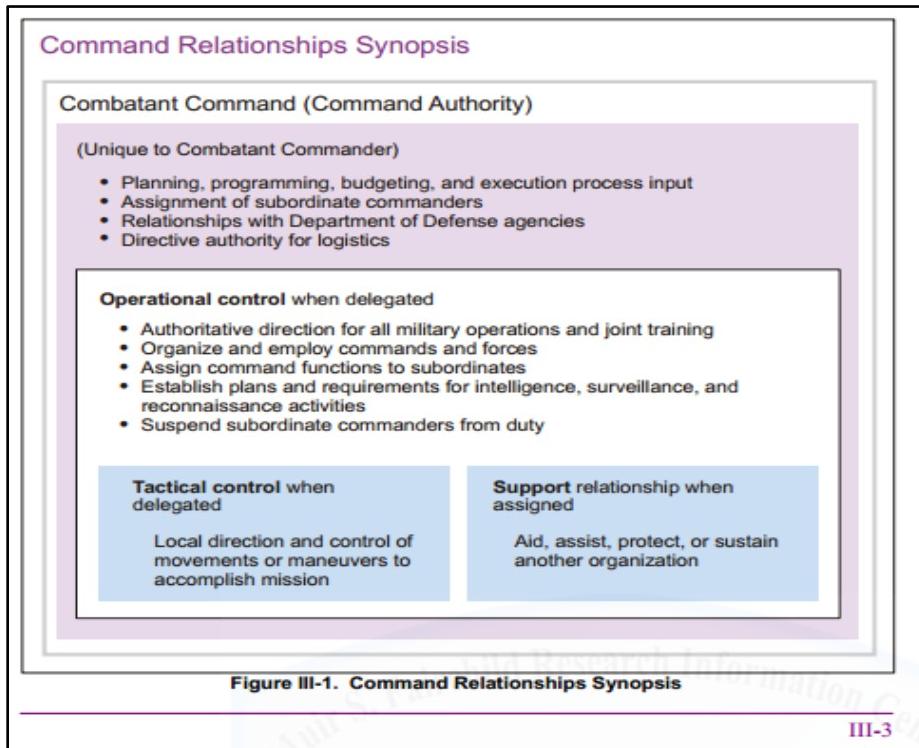


Figure 1. Command Authorities (JP 3-0, p. III-3)

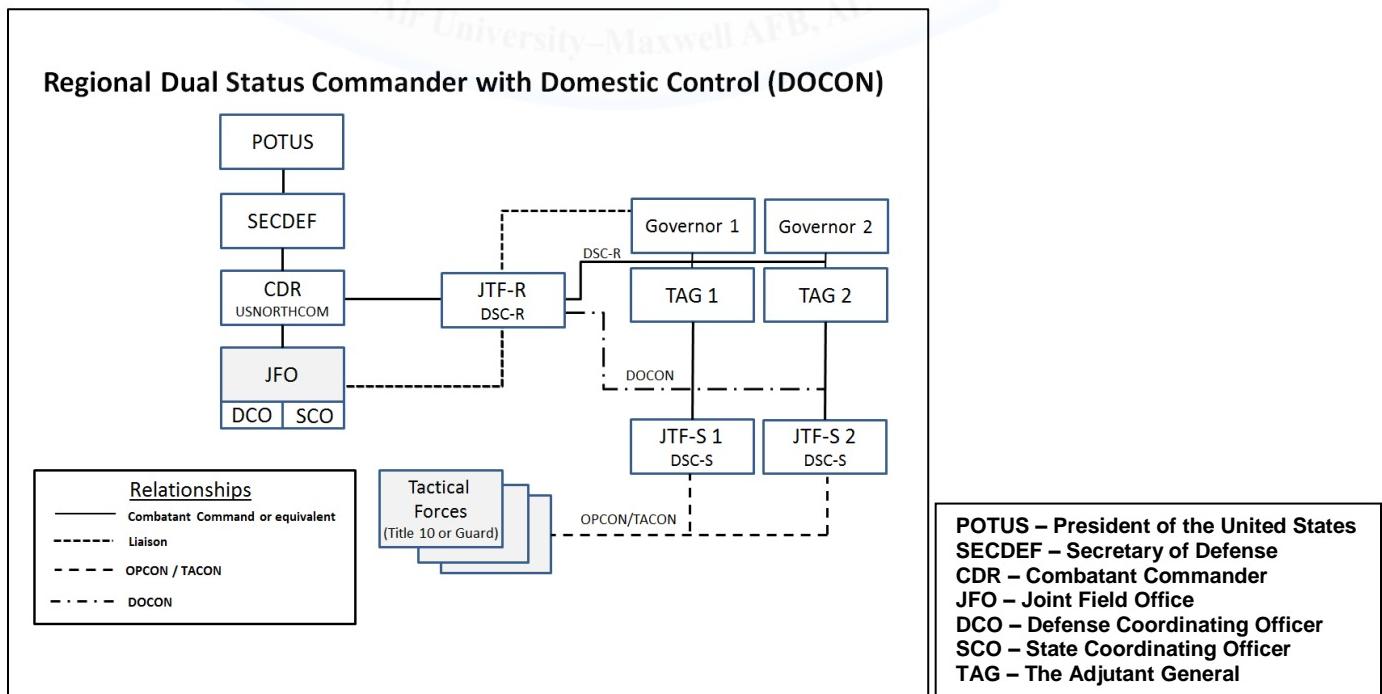


Figure 2. Regional Dual Status Command Structure.

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## Endnotes

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- <sup>1</sup> Joint Publication 3-0, *Operations*, (Washington, D.C., 11 August 2011) xi.
- <sup>2</sup> Joint Publication 1, *Doctrine of the Armed Forces of the United States*, (Washington, D.C., 11 August 2011) xx.
- <sup>3</sup> Government Accountability Office, Report 06-643, *HURRICANE KATRINA: Better Plans and Exercises Needed to Guide the Military's Response to Catastrophic Natural Disasters*, (Washington, D.C., May 2006), 1.
- <sup>4</sup> Ibid., 21. [Guard members served in both state and Title 32 status]
- <sup>5</sup> Ibid., 15
- <sup>6</sup> Ibid., 28.
- <sup>7</sup> Ibid., 26.
- <sup>8</sup> Ibid., 27
- <sup>9</sup> Title 32, United States Code, Chapter 3-Personnel, Section 315-*Relief from National Guard duty when ordered to active duty*, Delegation of Functions and Authority Under Sections 315 and 325 of Title 32, United States Code, Memorandum of President of the United States, Apr. 14, 2011, 76 F.R. 22003.
- <sup>10</sup> Title 32, United States Code, Chapter 3-Personnel, Section 325-*Detail of regular members of Army and Air Force to duty with National Guard*, Delegation of Functions and Authority Under Sections 315 and 325 of Title 32, United States Code, Memorandum of President of the United States, Apr. 14, 2011, 76 F.R. 22003.
- <sup>11</sup> National Defense Authorization Act for Fiscal Year 2012, Title 10 United States Code, Subtitle E, Part 2, Chapter 1209, Section 12304a-Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve: *order to active duty to provide assistance in response to a major disaster or emergency*.
- <sup>12</sup> The Constitution of the United States, Amendment 10, ratified 15 December 1791. Accessed on line 4 December 2015 at [http://www.archives.gov/exhibits/charters/bill\\_of\\_rights\\_transcript.html](http://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html).
- <sup>13</sup> The Constitution of the United States, Amendment 2, ratified 15 December 1791. Accessed on line 4 December 2015 at [http://www.archives.gov/exhibits/charters/bill\\_of\\_rights\\_transcript.html](http://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html).
- <sup>14</sup> Title 10, United States Code, Subtitle A, Part 1, Chapter 13, Section 311, *Militia: composition and classes*.
- <sup>15</sup> Title 32, United States Code, Chapter 3-Personnel, Section 315 and 325.
- <sup>16</sup> Lieutenant Colonel Bruce H. Stillman, *Transforming Domestic Civil Support Command and Control*, (U.S. Army War College, Carlisle Barracks, PA, 2009), 5.
- <sup>17</sup> Stacey Stewart, NOAA, National Hurricane Center, *Annual Summary 2012 Atlantic Hurricane Season*, (Washington, D.C., 23 Jan 2014), 4.
- <sup>18</sup> Burke and McNeil, *Maturing Defense Support of Civil Authorities*, 8.
- <sup>19</sup> *DOD Needs to Address Gaps in Homeland Defense and Civil Support Guidance*, United States Government Accountability Office, GAO-13-128, (Washington, D.C., 24 October 2012), 2.
- <sup>20</sup> Government Accountability Office, Report 13-763, *CIVIL SUPPORT: Actions Are Needed to Improve DOD's Planning for a Complex Catastrophe*, (Washington, D.C., September 2013), 20.
- <sup>21</sup> Ryan Burke and Sue McNeil, *Maturing Defense Support of Civil Authorities and the Dual Status Commander Arrangement Through the Lens of Process Improvement*, (Carlisle Barracks, PA, United States Army War College Press, April 2015), 9.
- <sup>22</sup> Ibid., 9.
- <sup>23</sup> Tornado Recovery Action Council of Alabama, *Cultivating A State Of Readiness*, Montgomery, AL, January 2012
- <sup>24</sup> *After Action Report for the Response to the 2013 Boston Marathon Bombings*. State of Massachusetts Report. Boston MA, December 2013.
- <sup>25</sup> Ibid., 4-5. Unified Command in this instance refers to a Command and Control body consisting of the members as listed and not a concept for directing forces or resources.
- <sup>26</sup> Ibid., 59.
- <sup>27</sup> Joint Publication 3-27, *Homeland Defense*, (Washington, D.C., 29 July 2013), II-1.
- <sup>28</sup> Ibid., II-9.
- <sup>29</sup> GAO, Report 13-763, *CIVIL SUPPORT: Actions Are Needed to Improve*, 18.
- <sup>30</sup> Ibid., 19
- <sup>31</sup> Ibid., 19.
- <sup>32</sup> Stillman, *Transforming Domestic Civil Support*, 13.
- <sup>33</sup> Joint Publication 3-0, *Joint Operations*, (Washington, D.C., August 2011), III-4.
- <sup>34</sup> Ibid., III-4.
- <sup>35</sup> Ibid., III-3

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<sup>36</sup> Joint Publication 3-28, Defense *Support to Civil Authorities*, (Washington, D.C., 31 July 2013), II-13. Currently there are 10 Federal Emergency Management Agency Regions.

